

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RAYMOND LARRY CARRASCO,

Petitioner,

No. CIV S-04-2595 MCE KJM P

vs.

SCOTT KERNAN,

Respondent.

ORDER

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus under 28 U.S.C. § 2254, a request to proceed in forma pauperis and a request for the appointment of counsel.

Examination of the in forma pauperis affidavit reveals that petitioner is unable to afford the costs of suit. Accordingly, the request for leave to proceed in forma pauperis is granted. See 28 U.S.C. § 1915(a).

Because petitioner may be entitled to the relief requested in his application for writ of habeas corpus if the claimed violation of constitutional rights is proved, respondent will be directed to file an answer.

There currently exists no absolute right to appointment of counsel in habeas proceedings. See Nevius v. Sumner, 105 F.3d 453, 460 (9th Cir. 1996). However, 18 U.S.C. § 3006A authorizes the appointment of counsel at any stage of the case “if the interests of justice

1 so require.” See Rule 8(c), Fed. R. Governing § 2254 Cases. In the present case, the court does
2 not find that the interests of justice would be served by the appointment of counsel at the present
3 time.

4 In accordance with the above, IT IS HEREBY ORDERED that:

5 1. Petitioner's request to proceed in forma pauperis is granted;

6 2. Respondent is directed to file an answer within sixty days from the date of this
7 order. See Rule 4, Rules Governing Section 2254 Cases. Respondent shall include with the
8 answer any and all transcripts or other documents relevant to the determination of the issues
9 presented in the application. Rule 5, Rules Governing Section 2254 Cases;

10 3. Petitioner's traverse, if any, is due on or before thirty days from the date
11 respondents' answer is filed;

12 4. The Clerk of the Court shall serve a copy of this order together with a copy of
13 petitioner's application for writ of habeas corpus on Jo Graves, Senior Assistant Attorney
14 General.

15 5. Petitioner's December 7, 2004 request for appointment of counsel is denied
16 without prejudice to a renewal of the motion at a later stage of the proceedings.

17 DATED: May 18, 2005.

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20 UNITED STATES MAGISTRATE JUDGE
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